

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

Application 24868B Permit 17837B License

**ORDER AMENDING THE PERMIT BY REVISING THE BYPASS TERM AND
MEASURING DEVICE TERM AND ADDING AN ENDANGERED OR THREATENED
SPECIES TERM**

WHEREAS:

1. Permit 17837B was issued to Johann J. Kobler and Theresia Kobler on February 20, 1980 pursuant to Application 24868B.
2. Josh Chandler was subsequently assigned ownership of Permit 17837B.
3. The Division of Water Rights (Division) conducted an inspection of the project covered by Permit 17837B on March 10, 1999. This inspection found that revisions to the measuring device term and the bypass term is required to ensure compliance with those terms.
4. The SWRCB will also add a term to prevent any act which results in the taking of a threatened or endangered species that has been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act.

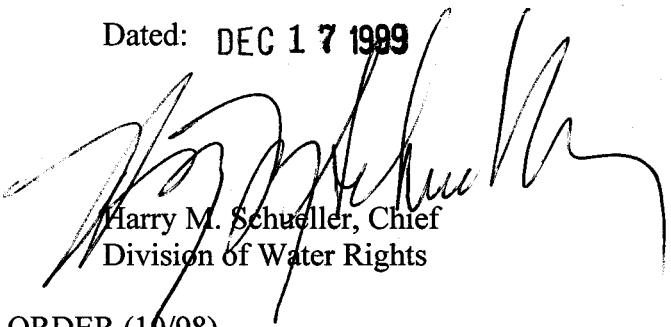
NOW, THEREFORE, IT IS ORDERED THAT:

Terms 15 and 16 of Permit 17837B be deleted, and the following terms and conditions be added to Permit 17837B:

1. For the protection of fish and wildlife, permittee shall, during the period from November 1 through June 1, continuously bypass or release downstream 3 gallons per minute through the 1½ - inch pipeline located at point of diversion #3.
2. No water shall be diverted under this permit unless the permittee has installed a 1½ - inch pipeline at point of diversion #3 that is satisfactory to the Chief of the Division of Water Rights and is capable of releasing the flow required by the conditions of this permit. Said pipeline shall be properly maintained and the permittee shall take a monthly measurement of the flow being released through the 1½ - inch pipeline at point of diversion #3. Permittee shall maintain a monthly record of the measurements and submit a copy of such records with the annual progress report by permittee.

3. This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code Section 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. Sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

Dated: DEC 17 1999



Harry M. Schueller, Chief
Division of Water Rights

ORDER (10/98)

10-26-99 Asg'd to Josh Chandler

P. 17837B

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 24868B

PERMIT 17837B

LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE

WHEREAS:

1. Permit 17837B was issued to Johann and Theresia Kobler on February 20, 1980, pursuant to Application 24868B.
2. A petition for an extension of time has been filed with the State Water Resources Control Board.
3. The permittee has proceeded with diligence and good cause has been shown for said extension of time.
4. Permit Condition 11 regarding the Board's continuing authority should be updated to conform to Title 23, California Code of Regulations Section 780(a).

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 8 of the permit be amended to read:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 31, 2003

(0000009)

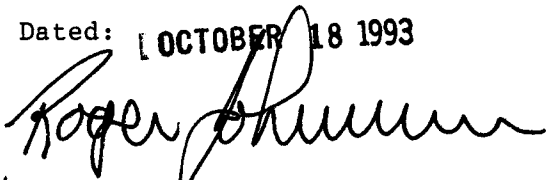
2. Condition 11 of the permit be amended to read:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

Dated: [OCTOBER 18 1993



for Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 17837 B

Application 24868 B of Johann J. Kobler and Theresia Kobler

P. O. Box 176, Philo, California 95466

filed on August 29, 1975, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

2, 3 Unnamed Stream

Lazy Creek

1. Lazy Creek

Navarro River thence

Pacific Ocean

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
Direct Diversion					
1. N1650 ft & W440 ft from S 1/4 Corner of Section 35	NE 1/4 of SW 1/4	35	15N	15W	MD
Direct Diversion and Rediversion					
2. N1320 ft & E1200 ft from SW Corner of Section 35	SW 1/4 of SW 1/4	35	15N	15W	MD
Direct Diversion and Rediversion					
3. N760 ft & E760 ft from SW Corner of Section 35	SW 1/4 of SW 1/4	35	15N	15W	MD

County of Mendocino

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Frost Protection	E 1/2 of SW 1/4	35	15N	15W	MD	27
	SW 1/4 of SW 1/4	35	15N	15W	MD	13
	NW 1/4 of NW 1/4	35	15N	15W	MD	10
					TOTAL	50

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.445 cubic foot per second to be diverted from March 15 to May 31 of each year. The maximum amount diverted under this permit shall not exceed 30 acre-feet per year. (0000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall be completed on or before December 1, 1983. (0000008)

8. Complete application of the water to the proposed use shall be made on or before December 1, 1990. (0000009)

9. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)

10. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

11. Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation. (0000012)

12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

13. The State Water Resources Control Board reserves jurisdiction over this permit to impose any appropriate conditions at some future date to conform the permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing. (0000020)

2. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.448 cubic foot per second to be diverted from March 15 to May 31 of each year. The maximum amount diverted under this permit shall not exceed 30 acre-feet per year.

3. The amount authorized for appropriation may be reduced in the license if investigation warrants.

4. Construction work shall be completed on or before December 1, 1983.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1984.

6. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued.

7. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

8. Pursuant to California Water Code Sections 100 and 232, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

9. The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permitted users without unreasonable draft on the source. Permittee may be required to implement such programs as (1) retaining or recycling the water allocated; (2) using water reclaimed by another entity; (3) restricting agricultural water allocated; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

10. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) wastewater waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

11. The State Water Resources Control Board reserves jurisdiction over this permit to impose any appropriate conditions at some future date to conform the permit to Board policy or need of water for flood protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

14. Permittee shall not exercise any other existing right to the use of water named herein so long as this permit or any license issued pursuant thereto remains in effect. (0000999)

15. For the protection of fish and wildlife, permittee shall during the period from March 15 through May 31 bypass a minimum of 3 gallons per minute at point of diversion #3. The total streamflow shall be bypassed whenever it is less than the designated amount. (0140060)

16. No water shall be diverted under this permit until permittee has installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the flow at point of diversion #3 required by the conditions of this permit. Said measuring device shall be properly maintained. (0060062)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated:

FEBRUARY 20 1980

STATE WATER RESOURCES CONTROL BOARD

Walter E. Pettit
Chief, Division of Water Rights